

Government supports the reform of the MoJ into the criminal liability of minors

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Press release

On Tuesday, 25th June the Government supported the amendments to the Criminal Law and the Criminal Procedure Law proposed by the Ministry of Justice stipulating to reduce the number of minors subjected to the traditional criminal liability system, that is, to encourage their resocialization.

The reform of minor criminal liability system is based on the principles of restorative justice. The purpose of the traditional criminal justice is to punish persons at fault which is in conflict with the interests of minors, even if they have committed a crime. That is, they must have an option to protect their interests, develop and become wholesome members of community.

This means that the Criminal Law will stress that when it comes to minors, the main purpose of the punishment is to re-socialize minors because it is proven that the majority of minors when their personalities mature and they become adults, cease their law-breaking activities.

Similarly, the reform will introduce a new type of principal punishment – probation supervision. This punishment will serve as middle grounds between forced labor and deprivation of liberty, as per annotation.

Mihails Papsujevičs, the head of the State Probation Service (SPS), explains that the reform will help the Service to better work with minors, by separating them from their environment (when necessary) which could be a factor contributing to criminal activity. The probation supervision as a punishment will help the SRS to work with the minor offenders by possibly refraining them from committing new offences.

Papsujevičs argued that the new punishment will be applied to adult offenders too, for example, for offences related with the use of intoxicating substances and causing minor bodily injuries.

For the majority of minors, the problematic behavior is temporary; therefore, punishment without re-socialization could potentially have a negative effect on their identity and self-confidence which is required for successful development. All methods without re-socialization hinders healthy development of an adolescent; these are poorly developed and justified methods which are usually financially expensive in the long-run. The differences between adults and minors (along with the swift changes taking place during these years) are an essential foundation for many behavior issues and the most important reason to choose the most effective type of re-socialization for the minor at hand.

A punishment and isolation without re-socialization can have a negative influence on the integration of the minor back into the society. Isolation denies the possibility to establish positive peer relationships or be involved in developing activities, and limits education and work options. Therefore, isolation could contribute to humiliation, rejection, social alienation, stigmatization, and instability throughout the rest of the life.

The resocialization approaches emphasize that the age of minors is the time in one's life when it is most possible to successfully change behavior. To reduce the negative isolation effects, e.g. possible contacts with anti-social peers and negative influences, and to promote options to be involved in socially beneficial activities and get positive family support or other encouragement, individually customized resocialization options must be offered in less limiting and closed environments, bearing in mind the young person's risk and needs and society's safety, as per experts. Currently work with children takes place only when a conditional deprivation of liberty is imposed upon a child. However, not always this reaches the purpose of the punishment – resocialization of the minor person. Whereas forced labor is the sole type of punishment to be served by the minor in the community; however, only in rare instances this punishment fits the child's offence, problems and needs. Currently there is lack of punishment which would avoid isolating the child from the society but instead address the needs and problems of the child.

Therefore, the amendments stipulate that it will not be possible to impose fine upon the minors because such type of punishment

does not contribute to resocialization; furthermore, minors rarely have their own stable income.

Furthermore, the amendments will define the content of deprivation of liberty of minors which was not done before, that is, deprivation of liberty of minors shall be placement of a minor in a correctional institution which shall include serving of a criminal punishment customized for the minor's age, individual psychological properties and development level by using social behavior correction and social rehabilitation means and behavior rules determined in the applicable law. Currently, minor boys are placed in the Cesis Correctional Institution for Minors, but girls – in the Ilguciems Prison.

The amendments also stipulate that the deprivation of liberty of minors will always be imposed alongside with probation supervision, thus ensuring that after serving the sentence the work with the minor in question will continue. Furthermore, it is also stipulated that it will no longer be possible to impose upon minors a conditional deprivation of liberty in order to impose upon them instead another principal punishment – probation supervision set forth in the planned amendments.

In order to avoid isolating the child from the community and to promote resocialization and change of thinking instead, the amendments stipulate that, depending on the severity of the offence, the court could set the probation supervision as the principal punishment for minors from three to seven years also for serious offences for which the law provides for deprivation of liberty for a time period exceeding five years, and for especially serious crimes too.

The amendments plan special procedure to replace the probation supervision with deprivation of liberty in cases when probation supervision is not complied with. In cases like these, the unserved sentence can be replaced with deprivation of liberty, calculating two days of probation supervision as one day of deprivation of liberty, thus defining more beneficial punishment replacement procedure than is set for adults. In cases like these, the main goal is not to isolate the child from society for an exceedingly long time, because each such isolation could irreversibly damage the minor's mental state which would fail to improve the child's behavior in the long-run but cause an opposite effect instead.

The amendments for minors also stipulate a special procedure for the replacement of community work in cases when the sentence is not served. Unlike in the case of adults, the community work will not be replaced with deprivation of liberty, but instead it will be replaced with probation supervision which is more lenient type of punishment and more effective for the corrections of the minor's behavior, thus introducing a gradual approach in cases when the child avoids serving the punishment.

These amendments must yet be approved by the Parliament (Saeima).

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